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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,401	12/12/2003	Yu Zheng	PAT-1486CIP2	2110
7590 01/25/2007 Raymond Sun Law Offices of Raymond Sun 12420 Woodhall Way Tustin, CA 92782			EXAMINER YIP, WINNIE S	
			ART UNIT 3636	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/25/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/735,401

Applicant(s)

ZHENG, YU

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's amendment filed on November 6, 2006.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-19 have been cancelled, and new claims 20-39 are pending in the application.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 35-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The materials which is not supported by the original disclosure is as follows: a method steps of inflating and deflating the wall panel and the inflatable tube, introducing a fluid into the space after inflating such that the upper portion of the pool is moved to a position, and removing the fluid after deflating. The specification only define the upper border 60 may be an inflatable tube without any steps of assembly.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined

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application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 20-34 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 6-8, and 12 of copending Application No.10/665,194. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim substantially same subject matters including a rim member, first and second foldable frame members, a flexible and waterproof material attached to the first and second frame members by sleeves and to define a containing member to be capable receive a liquid, and a inflatable tube disposed on the wall panel as claimed except different wordings.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 20-34 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 6,901,940. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is fully encompassed in the patents since each

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patent and the application are claiming common subject matter, as follows: an apparatus/a collapsible structure comprising a wall panel formed by a frame member covered by a waterproof sheet, a base panel including a waterproof bottom sheet coupled to the wall panel to define an interior spacer for receiving fluid therebetween, and a inflatable tube disposed at the top portion of the wall panel in the combination or subcombination claims except with different wording arrangement. Claims 20 and 28 -29 of the application are **generic** to all that is recited in claims 1, 8-10, 13-14, and 17-18 of said patent. In the other work, claims 1-24 of said patent fully encompasses the subject matter of claims 20-34 of the application, and therefore anticipates claims 20-35 of the application.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See MPEP § 804.

6. Claims 35-39 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. **6,901,940**. Although the conflicting claims are not identical, they are not patentably distinct from each other because the '940 patent teaches each the elements of the instant claims except the steps of method of using the apparatus which would have been an obvious to one having ordinary skill in the art to assembling the collapsible structure of '940 patent with the steps as claimed.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 20-21, 24-28, 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw '437 in view of Wyllie (US Patent No. 2,854,049).

Shaw et al. teaches a collapsible container comprising a circular wall panel (12) having a top portion and bottom portion, a tube (15) disposed at the top portion of the wall panel, a base panel defining a periphery, the bottom of the wall panel coupled to the periphery of the base panel, the base panel being made of a sheet of waterproof material such that the wall panel and the base panel define an interior space configured to receive a fluid, a collapsible frame member (14) being a continuous loop having a folded and unfolded configuration, the collapsible frame being retained in a sleeve formed between the periphery of the base panel and the bottom of the wall panel by stitching. Although Shaw does not define the upper tube member being an inflatable tube having inflated configuration and a deflated configuration. Wyllie teaches a collapsible container comprising a wall panel (8), a base panel (2), and an inflatable tube (10) formed at a top portion of the wall panel, the inflatable tube (10) being inflated through inflation valves (see col. 2, lines 9-10) such that the inflatable tube raises the wall panel when the liquid filling up the interior space of the container. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the collapsible container of Shaw et al. having the tube disposed on the top portion of the wall panel being formed with inflation valves as taught by Wyllie instead of a inserted floating member such that the tube can be inflated and deflated for easily place the container in opening and collapsing position.

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8. Claims 20-21, 24-28, and 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyllie (US Patent No. 2,854,049) in view of Shaw (US Patent No. 5,429,437).

Wyllie teaches a collapsible container comprising a wall panel (8), a base panel (1) defining a periphery, a bottom of the wall panel coupled to the periphery of the base panel, the base panel and the wall panel being made of sheets of waterproof material such that the wall panel and the base panel define an interior space configured to receive a fluid, a sleeve (5) formed at the periphery of the base panel and the bottom of the wall panel by suitable fastening means, an inflatable tube (10) formed at a top portion of the wall panel, the inflatable tube (10) being inflated through inflation valves (see col. 2, lines 9-10) such that the inflatable tube raises the wall panel when the liquid filling up the interior space of the container. Although, Wyllie does not define a collapsible frame member disposed within the sleeve as claimed, Wyllie disclose that a pipe/frame member may be uses for holding the container on the support surface (see col. 2, lines 33-35). Shaw et al. teaches a collapsible container comprising a wall panel (12) coupled to a base panel, a collapsible frame member (14) being a continuous loop having a folded and unfolded configuration and being retained in a sleeve formed between a periphery of the base panel and a bottom of the wall panel. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the collapsible container of Wyllie having a continuous loop collapsible frame member having a folded and unfolded configuration and disposed inside of the sleeve (5) at the bottom of the wall panel as taught by Shaw et al. for providing a weight thereon to stabilizing the container resting on the support surface while the container can be remained to be in an folded and an unfolded configuration.

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9. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw in view of Wyllie '049 as applied to claims 20 above, and further in view of Gillebarrad, Jr. (US Patent No. 5,592,702).

Shaw does not specifically define show the collapsible frame member (14) is coupled to the periphery of the base panel or the bottom of the wall panel. Wyllie teaches a container having a sleeve formed from a sleeve material folded over and along the edge wall panel and the base panel. And, Gillebarrad, Jr. teaches a container used to be a pool having a wall panel (20) and a base panel (32) made of waterproof material, wherein the bottom of the wall panel being coupled to the outer periphery of the base panel by sealing tight connection, and having a sleeve (61) formed by a sleeve material being folded over from the bottom of the wall panel and being stitched thereon for retaining a frame member (60) therebetween such that the frame member holding the base panel to the support surface. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the collapsible container of Shaw as modified by Wyllie having a sleeve formed by a folded over material by stitching or other fastening manner at either the bottom of the wall panel or the outer periphery of the base panel as taught by Gillebarrd, Jr. as a old holding manner for retaining the collapsible frame member therein such that to retain the base panel of the container in an unfolded configuration.

10. Claims 23 and 29-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw '437 in view of Wyllie '049, and further in view of Ivanovich et al. (US Patent No. 5,163,461).

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The claims are considered to meet by Shaw as modified by Wyille as explained and above rejections except that Shaw does not define the collapsible frame member having two ends being coupled together by a connector to form a continuous loop as claimed. Ivanovich et al. teaches a collapsible structure comprising a plurality of collapsible frame members each having ends being coupled together by a connector (51 or 54 or 52) to form a continuous loops of frame member which can be folded and unfolded. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the collapsible container of Shaw combined by Wyille having the collapsible frame member having ends being coupled together by a connector as taught by Ivanovich et al. as a obvious coupling mechanism for forming a continuous loop of frame member to be retained inside of the sleeve for holding and retaining the panels of the container in an unfolded position and can be folded into a storage position.

Response to Arguments

11. Applicant's arguments with respect to claims s 1-19 under U.S.C. 102/103, and specifically to the newly inserted feature of inflatable tube has been considered. This feature was not specifically and previously claimed in claims 1-19. Therefore, this argument is deemed to be moot in view of the new grounds of rejection.

ACTION IS MADE FINAL

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Winnie Yip
Primary Examiner
Art Unit 3636

wsy

January 18, 2007